

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MARYLAND
(GREENBELT DIVISION)**

In Re:)	
)	
RANDY THOMAS,)	
TANISHA THOMAS,)	Case No. 18-12528-WIL
)	
Debtors.)	Chapter 13
_____)	
)	
RANDY THOMAS,)	
TANISHA THOMAS,)	
)	
Movants,)	
)	
v.)	
)	
CAPITAL ONE AUTO FINANCE)	
a division of Capital One N.A.)	
c/o AIS Portfolio Services LP,)	
)	
Respondent.)	
_____)	

**LIMITED OBJECTION TO THE CLAIM OF CAPITAL ONE AUTO FINANCE, A
DIVISION OF CAPITAL ONE, N.A. C/O AIS PORTFOLIO SERVICES, LP
(CLAIM NO. 5)**

Randy and Tanisha Thomas (“Movants”), by and through their undersigned counsel Suvita Melehy and Melehy and Associates LLC, hereby file this Limited Objection to the Claim of Capital One Auto Finance a Division of Capital One, N.A. c/o AIS Portfolio Services, LP (Claim No. 5.) In support, Movants state as follows:

1. On February 27, 2018, Movants filed a voluntary petition for relief under 11 U.S.C., Chapter 13.

2. Movants are the owners of a 2013 GMC Terrain, (hereinafter the “Collateral”). The Collateral is encumbered by a purchase money security interest in favor of Respondent.

3. On March 29, 2018, Respondent filed a Proof of Claim (Claim No. 5) for the following amounts:

- i. Secured Claim: \$ 15,600.00;
- ii. Unsecured Claim: \$ 8,344.13;
- iii. Total Claim: \$ 23,944.13;

4. In its Claim, the Respondent claimed annual interest at the fixed contract rate of 11.34%. (*See* Claim No. 5.)

5. On May 5, 2018, Movants filed Motion to Value Collateral, Determine Extend of Secured Lien and Avoid Security Interest Pursuant to 11 U.S.C. § 506. Therein, Movants sought a determination that the value of the Respondent's secured claim (to be paid through their Chapter 13 Plan) is equivalent to the fair market value of the collateral - \$14,750.00. (*See* ECF No. 27.)

6. On July 11, 2018, the Court entered an order granting the Movant's motion. (ECF No. 47.) The order did not provide for a rate of interest to be paid to Respondent through the Plan on the secured portion of its claim.

7. Movants intend to propose a Second Amended Plan which will pay the Respondent interest at the rate of 6.75% (which is equivalent to the prime interest rate of 4.75% plus and additional risk adjustment rate of 2%) as determined pursuant to *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).

8. The Respondent's Claim (Claim No. 5) is inconsistent with the Movants' proposed treatment of this debt in their Plan and with the Movants' right to pay interest at 6.75% pursuant to the statutory authority provided in 11 U.S.C Section 1325, as the same has been interpreted by the Supreme Court's decision in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).

WHEREFORE, Movants respectfully request that this Honorable Court enter an order:

A. sustaining their Limited Objection to the Claim of Capital One Auto Finance Capital One Auto Finance a Division of Capital One, N.A. c/o AIS Portfolio Services, LP (Claim No. 5);

B. holding that Movants are permitted to modify the terms of the obligation owed to Capital One Auto Finance a Division of Capital One, N.A. c/o AIS Portfolio Services, LP and pay the value of their secured claim (as previously fixed by this Court) at an interest rate of 6.75%; and

C. granting the Movants such other and further relief as the Court shall deem just and proper.

A proposed Order is attached.

Respectfully submitted,

/s/Suvita Melehy
Suvita Melehy
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Attorney for Movants/Debtors

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of August, 2018, a copy of the foregoing was served both: electronically by CM ECF system, and by first class mail, postage pre-paid upon:

Capital One Auto Finance
a division of Capital One N.A.
c/o AIS Portfolio Services LP
4515 N Santa Fe Ave. Dept. APS
Oklahoma City, OK 73118
Respondent

Timothy Branigan, Esquire
9891 Broken Land Parkway
#301
Columbia, MD 21046
Chapter 13 Trustee

And by first class mail, postage pre-paid upon:

Capital One Auto Finance, Inc.
SERVE: CSC-Lawyers Incorporating Service Company
7 St. Paul Street, Suite 1660
Baltimore, MD 21202
Respondent's Agent Authorized to Accept Service

Randy Maurice Thomas
13214 Shawnee Lane
Clarksburg, MD 20871
Movant/Debtor

Tanisha Natasha Thomas
13214 Shawnee Lane
Clarksburg MD 20871
Movant/Debtor

/s/Suvita Melehy
Suvita Melehy